

Telework Article

Section 1. Purpose

The Telework Enhancement Act of 2010 requires the head of each executive agency to establish a telework policy for eligible employees, and the current Administration has directed federal agencies in their evaluation of the Future of Work to evaluate how telework can be a beneficial tool for agency operations and the workforce. A successful long-term telework program can yield many benefits, including cost savings, protection of environmental quality by reducing commutes and in turn reducing traffic congestion and vehicle emissions, reduction in the agency's carbon footprint, increased productivity and performance, enhanced recruitment and retention, heightened employee morale, increased work/life balance, enhanced health and safety (reduced viral transmission), additional time for focused work, and improved emergency preparedness. Use of maximum telework by EPA has enabled the Agency to continue most of its operations remotely without interruption throughout the COVID-19 pandemic. Telework and remote work can be leveraged as a tool to enhance talent recruitment and retention, and advancing diversity, equity, inclusion, and accessibility in the EPA workforce.

Section 2. Scope

- A. This Article addresses regular, situational, and medical telework for AFGE bargaining unit employees. It also addresses, but does not limit, telework when used to accommodate AFGE-represented employees with disabilities under the agency's reasonable accommodation process. Generally, employees covered by this Article are expected to report to the Official Agency Worksite at least twice in a biweekly pay period.
- B. This Article also addresses full-time telework used on a temporary basis (such as medical telework) and telework as a reasonable accommodation (telework as a fulltime accommodation is considered in the Remote Work Article and under the EPA's separate reasonable accommodation process.). With the exception of these arrangements, arrangements where the employee is not expected to report to the Official Agency Worksite on a regular and recurring basis two times per biweekly pay period are addressed in the Remote Work Article.
- C. When the Agency's policies and this collective bargaining agreement conflict, the CBA shall govern unless the parties mutually agree otherwise.

Section 3. Policy

- A. The EPA supports the use of telework for the benefit of the environment, agency operations, cost savings and work/life balance of its workforce. The extensive and successful use of telework agencywide during the COVID-19 pandemic has made telework one of the principal operating modes for the Agency and use of telework has been shown to be appropriate for a broader range of types of work than the Agency had previously used. Telework and remote work can improve the Agency's ability to recruit and retain a highly qualified and diverse workforce.
- B. The Agency's telework program has become a routine way of doing business at EPA. The eligibility of individual employees to participate in telework is based on:

1. The extent they have sufficient portable work to support a requested telework schedule; and
2. The employee eligibility requirements outlined in this article. Telework eligibility shall be based on job functions and not managerial preference.

Because telework requires collaboration between management and employees, both parties have responsibilities in its successful implementation and operation. An employee's participation in the Agency's telework program is voluntary. Teleworkers will receive the same treatment and opportunities as non-teleworkers (e.g., work assignments, awards and recognition, development opportunities, promotions, etc.) and are expected to perform and accomplish all assignments and tasks associated with their position, whether in the Official Agency Worksite or at an approved alternative work location.

Section 4. Definitions

- A. **Telework** – An arrangement where eligible employees perform the duties and responsibilities of their position during regular, paid hours from an approved worksite (e.g., residence, telework center) other than the Official Agency Worksite.
- B. **Alternative Work Location (AWL) or Alternative Worksite** – An AWL is an approved work location other than the employee's Official Agency Worksite. An AWL will generally be a single location (e.g., a residence), a group of locations (e.g., a campus, industrial park), or other approved worksite (such as a facility established by state, local or county government or private organization for use by teleworkers) and will generally be within the local commuting area. Employee requests to work at an AWL outside of the local commuting area may be approved by the appropriate approving official as noted in section VI. An employee may have more than one approved AWL.
- C. **Local Commuting Area** – As defined in 5 CFR 351.203, the Local Commuting Area is the geographic area usually constituting one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities where people live and can reasonably be expected to travel back and forth daily to their Official Agency Worksite.
- D. **Portable Work** – Work that can be performed with equal effectiveness with respect to quality, quantity, timeliness, and other aspects of accomplishing the EPA's mission at the employee's Official Agency Worksite or at an AWL. Portable work is part of the employee's regular assignments and does not involve a change in duties or the way the assignments are performed without supervisory approval.
- E. **Official Worksite** – The official location of an employee's position of record as determined under 5 CFR 531.605. Official worksite is the "official duty station" as the term is used in Title 5, United States Code, Section 5305(i).
- F. **Position of Record** – An employee's official position defined by grade, occupational series, employing agency, law enforcement officer status and any other condition determining coverage under a pay schedule (other than official worksite), as documented on the employee's most recent Notification of Personnel Action (Standard Form 50 or equivalent) and current position description, excluding any position where the employee is temporarily detailed.

- G. **Official Agency Worksite** – The EPA office (program, region, lab, HR Shared Service Center) where the employee reports on a regular and recurring basis, receives direction, or returns to if the supervisor recalls the employee or terminates the telework agreement.
- H. **Telework-Ready Employee** – Any employee who has a telework agreement currently in effect, authorizing any type of telework.

Section 5. Roles and Responsibilities

- A. **EPA Telework Managing Officer:** The Assistant Administrator for the Office of Mission Support (or designated representative) shall serve as the TMO. The TMO serves as the primary telework point of contact between the agency and the Office of Personnel Management. The TMO is responsible for overall policy development and implementation of the Agency's telework policy and programs and serves as an advisor for agency leadership on the full range of telework issues as well as a resource for managers and employees.
- B. **Agency Telework Coordinator:** The Office of Human Resources in the Office of Mission Support executes the duties of the agency telework coordinator, who is responsible for overseeing the agency telework program. The coordinator may periodically review telework approvals and disapprovals to ensure consistency of application, direct changes as necessary, and ensure any necessary training is provided as required. To the extent that the Agency Telework Coordinator prepares a report to OPM regarding approvals and disapprovals of OPM, the Agency will share such a report with AFGE, and the Agency commits to providing participation data to AFGE including documented approvals and disapprovals to allow monitoring of the program when such data is compiled.
- C. **Assistant Administrators, the Chief Financial Officer, the Chief of Staff to the Administrator, the General Counsel, and Regional Administrators or their equivalents or designated representatives:** These executives are responsible for selecting program/regional office telework coordinators and may assign and locate telework coordinator duties anywhere in their respective organizations. However, if a manager does not designate a telework program coordinator, they must ensure the telework program coordinator's responsibilities are appropriately delegated to and performed by one person who will serve as a point of contact for the Agency's telework coordinator.
- D. **Supervisors and Managers:** Supervisors and managers are responsible for the overall management of teleworking within their work units, including:
1. Working with their regional human resources officer, HR SSC, and program management officer to identify positions eligible for telework and ensuring such designations are identified on position descriptions and in job announcements;
 2. Taking into account position eligibility for telework, work-related needs, approving or disapproving new or revised requests to telework (up to and including requests for telework wherein an employee seeks an arrangement where they report to their assigned EPA worksite at least twice in a biweekly pay period) within a reasonable timeframe (i.e., normally within 7 calendar days), and, in cases of disapproval, providing written justification to the employee;

3. Reviewing and, when necessary, recertifying employee telework agreements:
 - a. When there is a change in AWL or in-person work requirements;
 - b. Every 12 months (or less frequently, at the discretion of management); or
 - c. To synchronize annual recertifications if a particular organization's annual recertification time period is sooner than 12 months, so all employees can be recertified at the same time;
4. The supervisor shall provide the employee with a signed copy of the Telework Agreement;
5. Ensuring teleworking employees are provided the equipment necessary to successfully telework, including laptop computers and communications technology needed to communicate with supervisors and colleagues. The Agency agrees to examine the expansion of communications technology to facilitate communication with the public and will involve AFGE in that process;
6. Overseeing day-to-day telework operations; modifying individual telework agreements to meet mission needs, accomplish workload, in response to employee requests, or due to changing circumstances; and maintaining records and information necessary for evaluation of the program;
7. Ensuring teleworkers agree to comply with all existing security policies and procedures, regarding IT security, personally identifiable information and proprietary/confidential business information;
8. Ensuring proper use of appropriate telework time reporting codes to document hours teleworked; and
9. Monitoring performance by ensuring appropriate management controls and reporting procedures are in place before employees begin telework assignments. Teleworkers and non-teleworkers are treated identically for the purposes of monitoring and assessing job performance; however, supervisors and managers may need to utilize different mechanisms for communicating with teleworking employees.
10. Requests under this Article will not be unreasonably denied.

E. **Employees:** Employees are responsible for the following:

1. Completing a telework agreement and waiting for approval from their supervisor prior to teleworking;
2. Performing an assessment of the AWL and answering the required questions on the Self Certification Safety Checklist;
3. Adhering to the terms and conditions of the applicable telework policy, procedures, terms and conditions of the approved telework agreement;
4. Complying with EPA policies for information technology security and use of government equipment/materials;

5. Informing their supervisor if any terms under the telework agreement have changed, such as AWL, changes to answers in the safety checklist, and portability of work;
 - a. Notifying their supervisor if modifications are necessary to their telework agreement;
 - b. Reviewing and when necessary recertifying employee Telework Work Agreements:
 - i. When there is a change in AWL;
 - ii. Every 12 months (or less frequently, at the discretion of management); and
 - iii. To synchronize annual recertifications if a particular organization's annual recertification time period is sooner than 12 months, so all employees can be recertified at the same time.
 - c. Being available during scheduled work hours by telephone, email, and other applicable agency-approved technology and communication methods (e.g., Teams, etc.) in order to communicate with their supervisor to receive assignments and complete their work in accordance with the supervisor's instructions and to be accessible as they would be in the Official Agency Worksite;
 - d. Maintaining communication with the supervisor while teleworking and working with the supervisor to overcome problems or obstacles as they occur so the work of the organization is accomplished in an effective and timely manner;
 - e. Complying with all existing agency security policies and procedures, including those relating to personally identifiable information and proprietary/confidential business information;
 - f. When conditions set forth in 5 CFR § 630.1603 can be reasonably anticipated or the agency provides reasonable notice regarding changes to its operating status, taking reasonable steps within the employee's control to have necessary equipment and work-related materials (e.g., laptops, documents) available to allow them to telework from their AWL per 5 CFR § 630.1605; and
 - g. Arranging for dependent or elder care, if caregiving activities would otherwise interfere with the employee's work duties during the time the employee is working at an AWL and/or requesting leave or work schedule adjustments for periods when the employee is not able to work due to dependent or elder care responsibilities.

Section 6. Types of Telework

Supervisors and managers may authorize the following types of telework based on position eligibility for telework and work-related needs:

- A. **Regular/Routine Telework:** Regular/routine telework is the type of telework the employees may request approval for to perform their duties at an AWL on a regular and recurring basis, on predetermined days each pay period. Regular telework may range from one day per pay period up to and including employees scheduled to report at least twice each biweekly pay period on a regular and recurring basis to the Official Agency Worksite. Any holiday, day in paid leave status (e.g., annual,

sick, credit hours, etc.) or official travel will not count as a day away from the official worksite for the purpose of this requirement. Regular telework will typically be on the same days each pay period; however, managers may authorize adjustments to this type of telework when requested.

1. As noted in section IV, AWLs are typically located within the LCA. However, supervisors or managers may approve regular telework for employees outside the LCA if:
 - a. there is a reasonable expectation the distance from the Official Agency Worksite will not hinder the employee's ability to report to their Official Agency Worksite at least 2 times per biweekly pay period;
 - b. there is a reasonable expectation the distance from the Official Agency Worksite will not hinder the employee's ability to report to the Official Agency Worksite should they be recalled on a scheduled telework day or (3) the employee is doing temporary situational telework or medical telework (see below);
 - c. Employees may be recalled to their Official Agency Worksite with fewer than 24 hours notice when recall is essential for the agency to meet its mission. Where conditions outside of an employee's control prevent an employee from commuting to their Official Agency Worksite, the employee may be asked to request leave or perform portable work.
 - d. Example: An employee working at EPA headquarters in Washington, D.C. has a residence in Richmond, Virginia, and asks to perform regular telework at the residence as the AWL. Richmond is outside the Washington, D.C. locality area but the employee regularly reports to their Official Agency Worksite according to their work schedule with no documented issues. It is reasonable for the supervisor to approve the Richmond residence as the AWL. If an employee requests to regularly telework from an AWL in Juneau, Alaska, but the Official Agency Worksite is Washington, D.C., this would be an unreasonable request because the distance and ability to recall the employee are impacted by the proposed location of the regular telework AWL. Depending on the circumstances, the employee's situation may involve Temporary Situational Telework Under Special Circumstances (see below) or Remote Work (see Remote Work Article).
- B. **Situational Telework:** This type of telework is appropriate for work or assignments of specific limited duration on a non-routine, occasional, emergency, or ad hoc basis, as opposed to a regular telework schedule as defined above.
 1. Situational telework may be used to accommodate work/life balance needs (e.g., medical appointments, parent/teacher conferences, etc.) when commuting to the Official Agency Worksite before or after such events is impractical.
 2. Situational telework can be used to extend an employee's regular telework schedule for a limited duration where appropriate, such as during pandemic health crises (e.g., COVID-19) and prolonged weather events (e.g., unhealthy air due to wildfires).

3. An employee must have an approved situational telework agreement in place and, except in Limited Exceptions to Preapproval Requirements as discussed below, receive approval in advance each time they wish to telework.
4. An employee may be approved for both situational and regular telework.

C. Temporary Situational Telework Under Special Circumstances (Retention of Locality Pay):

Supervisors or managers may approve situational telework arrangements at an AWL within or outside of the local commuting area where the employee is not expected to report to the Official Agency Worksite two times per biweekly pay period for a discrete time period.

1. This arrangement may be approved by the supervisor or manager on a case-by-case basis, provided the employee meets all eligibility requirements contained in this Article.
2. Temporary telework arrangements generally should not exceed 6 months (exception noted in the bullet below), and approvals for extension of these arrangements must be renewed by the supervisor or manager at least each 30 days.
3. Employees needing temporary telework arrangements for extended periods should work with their manager or supervisor to determine if their situation may warrant telework as a reasonable accommodation or consider applying for remote work.
4. The situational telework exception allowing telework from an AWL outside of the LCA should generally be used in cases where:
 - a. the employee is expected to return to work in the LCA in the near future; or
 - b. the employee is expected to continue teleworking but is able to report to the regular worksite at least 2 times per biweekly pay period.
5. The intent of this special circumstance is to address situations where the employee retains a residence in the commuting area but is temporarily unable to report to the Official Agency Worksite for reasons beyond the employee's control. The agency will determine a telework employee's official worksite on a case-by-case basis. Such determinations are within the sole and exclusive discretion of the authorized agency official (generally the employee's supervisor), subject only to OPM review and oversight. 5 CFR § 531.605(d)(4).
6. Unreasonable denials can be grieved through the process detailed in the Grievance Article of the MCBA. Examples of appropriate temporary situations include:
 - a. Emergency situations preventing the employee from regularly commuting to the Official Agency Worksite, such as a severe weather emergency or a pandemic health crisis.
 - b. The employee is on personal travel outside the local commuting area and is available to telework at an approved AWL (e.g., a second home, the host residence) (approval of situation telework in these special circumstances will usually not exceed 60 days in any 12-month period).

- c. When needed to allow the employees to provide care for family members.
7. Other circumstances not involving situational telework where an employee is not reporting twice per pay period to the Official Agency Worksite but may maintain their locality pay include:
- a. When an employee is temporarily detailed to work at a location other than a location covered by a telework agreement.
 - b. An extended period of approved absence from work (e.g., leave).
 - c. When the employee is in temporary duty travel status away from the Official Agency Worksite.

8. Limited Exceptions to Preapproval Requirement:

- a. Employees should make every reasonable effort to request situational telework in advance and generally should not perform unscheduled telework without preapproval.
 - b. In rare situations, where an employee is prepared to telework and has sufficient portable work, an employee may request approval for unscheduled telework by the time they begin work if the employee is unable to connect with their supervisor in advance after good faith efforts. Such rare instances may include, but are not limited to the following:
 - i. A significant disruption in mass transit service.
 - ii. Hazardous conditions (e.g., freezing rain, wildfire smoke, or extremely low wind chills) exist or are forecasted for the commuting area.
 - iii. A dependent is home due to mild illness or school closure (see Caregiving section for further discussion).
 - iv. The employee has a mild illness (e.g., common cold) that does not interfere with working from an AWL.
 - c. In rare situations, a supervisor may decline an employee's situational telework request after the employee has begun working. The employee will be credited for the time they have already worked if they had sufficient portable work to perform. An employee may either come into their Official Agency Worksite or request leave if their situational telework is denied in these circumstances.
 - d. If a supervisor documents an employee's abuse of this provision or an employee has insufficient portable work, then a supervisor, at their sole discretion, may prohibit an employee from utilizing situational telework without preapproval.
- D. Unscheduled Telework:** This type of telework is not scheduled in advance but is performed when the Agency announces changes to its operating status, including changes to dismissal and closure procedures pursuant to OPM or local management operating status announcements. Any telework-ready employee that is able to safely travel to and work at their approved AWL must perform unscheduled telework as provided in 5 CFR 630.1605, except as provided for in 5 CFR 630.1605(a)(2), or request leave as appropriate.

E. **Medical Telework:** Medical telework allows for the continued accomplishment of Agency work while an employee has a medical condition not affecting the employee's ability to perform their regular work assignment at an AWL.

1. Medical documentation certified by a licensed physician or other licensed health practitioner justifying the need for medical telework must be provided to the supervisor unless waived by the supervisor, as provided in Section XI below.
2. This type of telework may be the equivalent of full-time, but it is a temporary telework arrangement and generally may not exceed 12 months in duration within any three-year period for any individual condition.
3. A telework agreement and a safety checklist must be submitted and approved by the supervisor prior to the start of the arrangement.
4. Supervisors will endeavor to approve medical telework requests on an expedited basis to allow the employee to continue working from an AWL.
5. The initial telework arrangement is valid for up to 90 calendar days (depending on the medical documentation) and may be extended in 90-calendar day increments if the medical certification justifies such at each extension (i.e., medical documentation must be submitted every 90 calendar days if warranted). The total maximum allowable time for a medical telework agreement generally is 12 months within any three-year period for any individual condition.
6. Exceptions to these limits will not be unreasonably denied where there is more than one medical issue giving rise to the request.
7. Employees with medical conditions lasting more than a year should contact the local or national reasonable accommodation coordinator to determine if their situation may warrant telework as a reasonable accommodation rather than extension of medical telework or may consider applying for remote work.
8. Please note, medical telework is not the same as telework as a reasonable accommodation. Medical telework is a temporary arrangement whereas telework as a reasonable accommodation is not subject to time limits if the condition justifying the arrangement persists. Please see the section on reasonable accommodation below.
9. If there is sufficient justification (e.g., location of a medical provider, location of family to assist in care) for medical telework to be conducted at a location outside the LCA, supervisors may approve an employee to work at an AWL outside the LCA.
 - a. This determination will be made by the supervisor on a case-by-case basis, provided the employee meets all eligibility requirements contained in this CBA.

- b. The agency will determine a telework employee's official worksite for locality pay purposes on a case-by- case basis. Such determinations are within the sole and exclusive discretion of the authorized agency official (generally the employee's supervisor), subject only to OPM review and oversight. 5 CFR § 531.605(d)(4).).
- 10. Unreasonable denials can be grieved through the process detailed in the Grievance Article of the MCBA.
- 11. Based on the employee's condition, the supervisor may grant medical telework, leave or a combination of leave and telework to cover the situation.
- 12. Medical telework is appropriate for employees with non-work-compensable injuries. Employees with work compensable injuries will be managed under applicable workers' compensation regulations.

F. Remote Work: Remote work is a special type of alternative work arrangement by which an employee is scheduled to perform work within or outside the local commuting area of an agency worksite and is not expected to report to an agency worksite on a regular and recurring basis. Remote work does not include temporary telework arrangements as explained above. The Remote Work Article is a separate article in the MCBA. Please refer to OPM [Guidance on Telework](#) and Guidance on Remote Work for further information.

G. Other Issues Affecting Telework

- 1. **Official Worksite for Pay Purposes:** Generally, if the employee does not physically report to the Official Agency Worksite at least twice each biweekly pay period, their duty station may change to the AWL and locality pay may be impacted. (5 CFR 531.605). An authorized Agency official (generally the employee's supervisor) may make an exception to a locality pay adjustment pursuant to 5 CFR 531.605(d)(2) and as discussed above for temporary situational telework arrangements or medical telework. Not all temporary telework or medical telework situations are appropriate circumstance for this exception unless approved by the supervisor.
- 2. **Caregiving, including Dependent and Elder Care:** Telework may be used as a flexibility to help employees with caregiving responsibilities including dependent or elder care responsibilities to meet their family obligations and work responsibilities. However, it is not appropriate to use telework if the employee is unable to work due to caregiving responsibilities. If caregiving responsibilities would otherwise interfere with the employee's work duties during the time the employee is working at an AWL, they must arrange for other care or request leave or work schedule adjustments for those periods when the employee is not able to work due to caregiving responsibilities. Where appropriate, employees may also consider requesting a Maxiflex work schedule to meet their biweekly work hour requirement. Work schedules are separate from telework, and employees should consult the Work Schedules Article of the CBA for more information on available schedules.

- a. Example 1: An employee has children in the home on a regular or situational telework day due to a school closure. Other than general oversight and occasional brief breaks to tend to family matters, the employee is able to complete work assignments during the daily tour of duty. Leave or work schedule adjustments in this example are not necessary.
 - b. Example 2: An employee has children in the home on a regular or situational telework day due to a school closure. One child needs more than minimal assistance with a school assignment during the employee's tour of duty. The employee will need to request leave or adjust their work schedule for the time they are unable to work.
 - c. Example 3: An employee requests a temporary AWL at their parents' residence so they can help their father provide assistance to their mother post-surgery. The employee may telework when not providing care for their mother and must request leave or adjust their work schedule when taking her to doctor appointments or caring for her when the father must run errands or needs a break during the employee's scheduled work hours.
 - d. Example 4: An employee has an adult family member in the home who is recovering from a serious illness. The employee may telework when not providing care and must request leave or adjust their work schedule for times they are unable to work such as when taking the family member to medical appointments.
3. **Reasonable Accommodation under the Telework Program:** Telework can be used as a way to accommodate qualified employees with disabilities under the Agency's reasonable accommodation process. Employees seeking to telework as a reasonable accommodation should contact their immediate supervisor or the national or local reasonable accommodation coordinator. Employees teleworking as a reasonable accommodation will follow the general requirements contained in this Article to the extent such requirements are consistent with the reasonable accommodation. Employees must, at a minimum, submit a telework application, record of completion of training, and safety checklist; however, the Agency shall not be constrained in accommodating persons with disabilities by the provisions contained in this Article. Employees approved to telework as a reasonable accommodation are required to have a valid, signed telework agreement.
4. **EPA Continuity of Operations Plan:** Telework is an important part of the Agency's COOP. As was demonstrated during the COOP for COVID-19, telework enables EPA employees to continue to work from AWLs during emergencies, such as a natural disaster, a terrorist attack, disruption to facilities or a pandemic health crisis, and telework proved to be a key tool in continuing the Agency's vital role in the federal government in the face of an emergency. During a declared COOP, any employee—with or without a telework agreement—may be required to telework. During any period the EPA is operating under a COOP, the COOP may supersede relevant elements of the EPA-AFGE MCBA Telework and Remote Articles. 5 USC 7106(a)(2)(D).

Section 7. Portable Work: Designating and Notifying Employees

- A. Although most positions may be suitable for telework, not all aspects of all jobs can be performed as effectively at an AWL and therefore be considered portable. Also, the portability of an employee's work can change over time due to project or mission needs.
- B. Supervisors must use the notification memorandum to notify employees of their ineligibility to telework, if applicable. No notification is required if the employee is eligible to participate in telework.

C. Work Suitable for Telework:

- 1. Work that is suitable for telework is Portable Work that can be performed at a location other than the Official Agency Worksite with equal effectiveness with respect to quality, quantity, timeliness, customer/client services, and other aspects of accomplishing the EPA's mission.
- 2. Work suitable for telework depends on job content, rather than job series or title, type of appointment, or work schedule.
- 3. It is possible within identical or related occupational series, one position or portion thereof may be determined to be eligible for telework and another may not, depending on individual job requirements.
- 4. Work that is generally suited for telework includes, but is not limited to:
 - a. Reviewing and writing
 - b. Policy development
 - c. Report writing
 - d. Research
 - e. Analytical work
 - f. Telephone-intensive tasks and virtual meetings
 - g. Computer technology-oriented tasks
 - h. Online training

D. Duties Not Suitable for Telework:

- 1. Work that is not suitable for telework is work that cannot be performed at a location other than the Official Agency Worksite with equal effectiveness.
- 2. As with portable work, it is possible within identical or related occupational series one position or portion thereof may be determined to be eligible for telework, and another may not, depending on individual job requirements.
- 3. Examples of duties not suitable to be performed away from their Official Agency Worksite include, but are not limited to, the following duties:

- a. Requiring face-to-face contact with the supervisor, colleagues, clients, or the general public that cannot otherwise be achieved as effectively by e-mail, telephone, video calls, collaboration technology, or other means;
 - b. Accessing classified information or a classified installation;
 - c. Involving the construction, installation, maintenance or repair of EPA facilities;
 - d. Involving the physical protection of EPA facilities or employees; or
 - e. Involving other physical presence/site-dependent activity (e.g., emissions testing, laboratory trials).
- E. Employees may have some duties suitable for telework and others not suitable. For these employees, supervisors will need to work with employees to determine how many days per pay period an employee may work at an AWL as part of a regular telework arrangement.

Section 8. Employee Eligibility Requirements

A. Basic Eligibility Requirements: An employee may be authorized to telework if:

- 1. The employee has sufficient portable work for the amount of telework requested;
- 2. The telework arrangement does not create any impediment to the effective accomplishment of the employee's and their organization's work;
- 3. The employee agrees to return to their Official Agency Worksite on a telework day if required to do so by their supervisor. Generally at least 24 hours notice, though less notice may be available;
- 4. The employee continues to comply with the terms of their written and approved telework agreement; and
- 5. Arrangements are in place for caregiving duties, if those duties would otherwise interfere with the employee's work duties during the time the employee is working at an AWL.

B. An Employee shall not telework if:

- 1. The employee has any documented performance or conduct deficiencies within the preceding 12 months that was related to the employee's telework status including, but not limited to, letters of reprimand, written warnings, or leave restrictions;
- 2. The employee has been officially disciplined for being absent without leave for more than five days in any calendar year;
- 3. The employee has been officially disciplined for viewing, downloading, or exchanging pornography, including child pornography, on a federal government computer or while performing official federal government duties; or
- 4. The employee has been disciplined for misuse of a government computer that the supervisor determined was related to the employee's telework status, within the prior five years. The

suspension from telework will be based on the severity of the offense and may not exceed five years.

Section 9. Preparing for the Telework Arrangement

A. Eligible Employees: All eligible agency employees who wish to telework must meet the following conditions. Failure to comply with any one of the conditions listed below may result in the denial or termination of a telework arrangement:

1. Complete the required employee telework training prior to applying for the telework program;
2. Submit the “EPA Telework Application/Agreement” and the "Employee Self- Certification Safety Checklist” to their supervisor for approval;
3. Ensure all necessary dependent/elder care arrangements are maintained and do not interfere with the employee’s work performance while working at the AWL;
4. Ensure compliance with the EPA’s information technology policies and procedures;
5. Comply with EPA policies and the CBA regarding pay, work schedules, time reporting code requirements, leave requests, and other administrative requirements in the same manner as employees working in their Official Agency Worksite;
6. Ensure working from the AWL causes no disruption in the efficiency of work and appears seamless. The employee should be as available to their clients/customers, co-workers and supervisors or managers as they would be at the Official Agency Worksite. This means, for example, the teleworking employees cannot designate their regular teleworking hours unavailable for calls, meetings or virtual meetings in their electronic calendars any differently than they would at their Official Agency Worksite or put “out of office” messages on e-mail and voice mail systems indicating they are unavailable;
7. Utilize call forwarding technology;
8. Maintain organizational requirements regarding communication and accessibility and respond in a timely manner to their team leaders, supervisors or managers, co-workers, agency customers, clients, and the public;
9. Be capable of joining and be available to join virtual meetings or conference calls while working at the AWL;
10. Safeguard agency equipment (if provided) and use it only for official purposes in accordance with established policies;
11. In the event agency equipment is not functioning, properly and promptly seek remote assistance. If remote assistance is ineffectual, the employee should take the steps necessary to obtain functioning equipment.

12. Be willing to telework in case of an emergency;
13. Be willing and able to leave the AWL and return to the Official Agency Worksite if requested after reasonable notice (e.g., generally at least 24 hours, though less notice may be available) by their supervisor;
14. Agree to report to the Official Agency Worksite as needed, as determined by the agency; and
15. Participate in the annual recertification process and in any other required telework program monitoring or evaluation processes required by the agency or other authoritative entities (e.g., OPM, Government Accountability Office, Congress).

B. Telework Agreement: Each new telework agreement will be reviewed on an individual basis. Decisions will be made based on eligibility criteria outlined in this Article. The process for application and re-certification will also follow those processes outlined in this Article.

Section 10. Telework Training

Training sessions on the basics of telework will ensure a common understanding of its requirements. Participating employees must complete the agency-approved training and obtain a record of completion of training before participation. The employee's record of the required training must be attached to the telework agreement. These documents should be maintained by both employees and supervisors. Supervisors or managers of those teleworking must also complete agency-approved telework training and obtain a certificate of training regardless of whether they themselves telework. Refresher training may be required on occasion by the agency.

Section 11. Establishing the Telework Agreement

A. Regular and Situational Telework: The following actions are to be taken when establishing a regular or situational telework agreement:

1. The employee submits a completed application (Appendix A) (<https://work.epa.gov/sites/default/files/2021-12/Telework-Appendix-A-EPA-Form-3181-2.pdf>) to their immediate supervisor;
2. The employee and supervisor discuss the proposed telework agreement and the type of work to be completed by the employee at an AWL;
3. If a suitable arrangement is reached, the employee finalizes the application/agreement, safety checklist (Appendix B)(<https://work.epa.gov/sites/default/files/2022-04/Telework-Appendix-B-EPA-Form-3181-3.pdf>) and the required training. Once all requirements are completed, the telework agreement is signed and dated by the employee and supervisor;
4. A separate Telework agreement for each situational telework event is not necessary if the employee has signed an agreement to telework on a situational basis;
5. A request for Situational Telework may be approved verbally but must be followed up with written approval via email or through a request to adjust the employee's schedule (e.g.,

screenshot of the employee's People Plus) detailing the day(s) and time(s) an employee is requesting to telework.

6. Employees may request more than one alternative work location. Employees requesting to work at an AWL not previously approved must update the telework agreement and submit a checklist for the new location to the supervisor for approval.
 7. Employees are to obtain information and implement all procedures for accessing the secured operations of their Official Agency Worksite; and
 8. If the employee receives approval for an AWL at a telework center, arrangements must be made by the employee's organization to cover costs of using the center and to reserve a workstation for the employee.
- B. **Medical Telework:** When establishing a medical telework agreement, the employee must submit a written statement as defined by 5 CFR § 339.104 from a licensed physician or other licensed health practitioner unless waived by the supervisor, generally including the following information ([Appendix C](#) may be used by AFGE employees seeking medical telework):
1. The diagnosis of the medical condition necessitating the telework arrangement;
 2. How the medical condition might interrupt the employee's ability to go to the Official Agency Worksite and might interrupt the employee's work schedule;
 3. Providing either the expected date when medical telework should no longer be necessary and the employee should be able to resume work at the Official Agency Worksite, or the expected timeframe for treatment and how that might impact the telework status;
 4. Listing restrictions necessary for work performed at the AWL, if applicable;
 5. Stating the employee is able to perform the duties of the position at an AWL (the duties relayed to the medical provider should also be shared with the employee's supervisor); and
 6. Describing the benefit to the employee's medical condition from working at an AWL, or the reduction of health risks to other employees, if any, derived from medical telework.

Section 12. Telework Agreements

- A. The telework agreement covers the terms and conditions of the telework arrangement for the individual employee and constitutes an agreement by the employee and manager to adhere to applicable guidelines and policies. The telework agreement includes items such as:
1. The voluntary nature of the arrangement;
 2. Duration of the telework agreement;
 3. Schedule of duty at each work location;

4. Leave approval and requests for overtime and compensatory time;
 5. Performance requirements; and
 6. Proper use and safeguards of government property and records.
- B. When any aspect of the work agreement changes (e.g., position, work assignment, supervisor, alternate work location, etc.), the employee and supervisor will reassess the employee's work to determine telework suitability and continued approval, however this may not require a new telework agreement.
 - C. Employees who are designated essential for inclement weather or other emergencies or are emergency response employees for COOP purposes must have signed telework agreements in place to facilitate continuity of operations in the event of emergencies. Employees designated for COOP purposes may be required to telework, irrespective of telework status/agreement.
 - D. The supervisor must retain a copy of the signed telework agreement including the record of training and a copy must be provided to the employee. The supervisor must also provide a copy of the signed telework agreement to the program/regional office telework coordinator who is responsible for maintaining telework records in the organization, if any.

Section 13. Time, Attendance and Other Miscellaneous Issues

- A. **Recording Telework Hours and Control of Time and Attendance:** Proper recording, monitoring and certification of employee work time are critical to the success of the program. Employees are responsible for recording all telework time into the time and attendance system using the appropriate telework time reporting codes.
- B. **Hours of Duty and Work Schedules:** Employees who telework will maintain a single type of schedule (e.g., compressed, flexible work schedule) whether at the Official Agency Worksite or the AWL. Unstructured arrangements where employees work at the AWL without prior supervisory approval are not permitted. Employees should refer to the Parties' Work Schedules Article for more information.
- C. **Overtime during Telework - Eligibility Requirements:** Just as at the Official Agency Worksite, overtime work conducted at an AWL must be approved in advance; overtime work not ordered and approved in advance by the supervisor, in writing, will not be compensated. Detailed information on overtime can be found in the EPA Pay Administration Manual (EPA Order 3155) and CBA Article.
- D. **Leave:** Procedures for requesting leave are the same for employees when participating in telework and when working at the Official Agency Worksite. See CBA Leave Article the EPA Leave Manual (EPA Order 3165) for details.
- E. **Workers' Compensation:**
 1. Employees who telework are covered by the Federal Tort Claims Act or the Federal Employees Compensation Act and qualify for continuation of pay for workers' compensation

for injuries sustained while performing their official duties. For this reason, it is vital a specific AWL be approved in advance and adhered to by the employee.

2. The supervisor's signature on the request for compensation attests only to what the supervisor can reasonably know, specifically whether the event occurred at the Official Agency Worksite or at an AWL during official duty. Typically, supervisors or managers are not present when an employee sustains an injury. Employees, in all situations, bear responsibility for informing their immediate supervisor of an injury at the earliest time possible, seeking appropriate medical attention and filing the appropriate workers' compensation claim form.
3. Telework arrangements can also result in employees who are currently receiving continuation of pay or worker's compensation returning to work, thus taking them off the workers' compensation rolls. Supervisors may be able to find work such employees are able to perform at AWL or restructure existing work so some of it may be completed at an AWL.

F. Requirement to Return to the Official Agency Worksite on a Scheduled Telework Day:

Teleworking employees working at an AWL may be recalled to the Official Agency Worksite to meet mission, staffing, and workload requirements. Under these circumstances, the following should occur:

1. Supervisors should notify employees as soon as possible if they are subject to a recall to the Official Agency Worksite in an effort to provide the employee sufficient time to make necessary arrangements. A supervisor may recall an employee to the Official Agency Worksite by notifying them generally at least 24-hours in advance. A supervisor may recall an employee to their Official Agency Worksite with fewer than 24 hours when recall is essential for the agency to meet its mission. Where conditions outside of an employee's control prevent an employee from commuting to their Official Agency Worksite, the employee may be asked to request leave or perform portable work.
2. If an employee is unable to telework from their AWL due to being required to be at the Official Agency Worksite on a regularly scheduled telework day, or being on approved leave, the employee is not entitled to another telework day. Likewise, the employee is not prohibited from requesting another telework day. At their discretion, the supervisor may approve another telework day within the same workweek or pay period.

G. Travel: The travel provisions applicable to employees working at the Official Agency Worksite also apply to employees when teleworking. If an employee is unable to telework from their AWL due to being on approved travel, the employee may request another telework day, and the supervisor may approve another telework day within the same work week or pay period at the supervisor's discretion.

H. Monitoring Performance: GAO guidelines require agencies to establish a method providing the supervisor with reasonable assurance employees are working when scheduled. Appropriate management controls and reporting procedures must be in place before employees begin telework assignments. Teleworkers and non-teleworkers should be treated identically for the purposes of monitoring and assessing job performance, but different modes of communication may be appropriate for those teleworking. Some approved techniques, potentially applicable to telework arrangements, include:

1. Supervisory telephone/video calls or e-mail messages to an employee;
2. Supervisory video meetings with an employee during times the employee is scheduled to be on duty and be available;
3. The need for a scheduled site visit by the supervisor to the employee's AWL during work hours may occur only in very rare circumstances where an employee's performance raises reasonable concerns substantiating the need, and only after the supervisor receives concurrence from the servicing LER specialist or other human resources official; and
4. Use of performance management systems, including regular workload/accomplishments reports for teleworking and non-teleworking employees, to determine reasonableness of work output for time spent, project schedules, key milestones, quality of the work performed, and team reviews.

Section 14. Emergencies: Unscheduled Telework/Dismissals/Closures

A. Unscheduled Telework/Closures:

1. In the event of a closure at the Official Agency Worksite, telework-ready employees already scheduled to telework on the closure day are required to do so except as provided for in 5 CFR 630.1605(a)(2). Telework-ready employees not scheduled to telework on the closure day are required, in coordination with their supervisor, to utilize unscheduled telework to the maximum extent possible, subject to available portable work and suitability of the AWL. If there is insufficient portable work as determined by the supervisor or the AWL is impacted as provided for in 5 CFR 630.1605(a)(2), the employee may be granted an appropriate category of administrative leave (e.g., weather and safety leave) to cover all or a portion of the scheduled workday.
2. Employees who are required to work during their regular tour of duty on a day when federal offices are closed to the public (or during delayed arrivals or early dismissals) are not entitled to overtime pay, credit hours, or compensatory time off for performing work during their regularly scheduled hours. Employees reporting to an AWL other than the employee's primary residence during the workweek will follow the closure or dismissal procedures of that AWL.

- B. Late Arrivals/Early Dismissals at the Official Agency Worksite:** When the agency announces early closure of or late arrival to the Official Agency Worksite, telework-ready employees already scheduled to telework on the early closure or late arrival day are required to telework their regularly scheduled non-overtime hours. Telework-ready employees not scheduled to telework on the early closure or late arrival day will be required, in coordination with their supervisor, to utilize unscheduled telework to the maximum extent possible, subject to available portable work as determined by the supervisor. If there is insufficient portable work as determined by the supervisor, the employee may be granted an appropriate category of administrative leave (e.g., weather and safety leave) for their regularly scheduled non-overtime hours when the Official Agency Worksite is closed. Early release for holidays or other like situations must be granted to those on telework to the same extent as granted to those employees working at the Official Agency Worksite.

- C. **Unscheduled Telework Announced:** In the event the Official Agency Worksite is open, but there is an announcement of the option for unscheduled telework, telework-ready employees not otherwise scheduled to telework may come into the Official Agency Worksite or request approval from the supervisor for unscheduled telework or the use of annual, credit, or other leave.
- D. **Other Emergencies or Disruptions to the Official Agency Worksite:** In the event of a disruption to normal office operations (e.g., national or local emergency, emergency event involving inclement weather, or any situation with the potential to disrupt normal office operations), employees approved for regular and situational telework are expected to telework if instructed by the supervisor to do so except in the case of situations where the emergency could not be reasonably anticipated and the employee could not make the necessary preparations, as provided for in 5 CFR 630.1605(a)(2). In COOP situations, telework may be required.
- E. **General Provisions:**
1. It is recommended supervisors and employees coordinate in advance if there is an anticipated event with the potential to disrupt normal office operations to ensure employees have portable work and the necessary equipment to perform telework during an Official Agency Worksite closure to the extent possible.
 2. As with scheduled telework, an employee performing unscheduled telework must have sufficient portable work to perform throughout the workday when teleworking.
 3. An employee who does not have enough portable work must report to their Official Agency Worksite if it is open, contact their supervisor for additional work, request appropriate leave, or adjust their work schedule (if applicable).
 4. When severe weather or other circumstances prevent work from the AWL (e.g., loss of electricity, employee must evacuate, infrastructure/connectivity and child/elder care issues) or there is a lack of portable work as determined by the supervisor, and the Official Agency Worksite is closed to employees, a telework-ready employee may be granted an appropriate category of administrative leave (e.g., weather and safety leave) by their supervisor.

Section 15. Modification and Termination of the Telework Agreement

- A. Employees who telework do not have an automatic right to continue teleworking.
- B. Determination of telework eligibility should be based on job functions, and not managerial preference.
- C. Telework eligibility should be based on equitable, function-based criteria.
- D. Telework agreements may be modified, adjusted, or terminated by management based upon an employee's failure to adhere to telework requirements or based upon any other consideration affecting employee eligibility. Telework agreements may also be modified, adjusted, or terminated at any time when requested by the employee.

- E. Management has the right at any time in accordance with this agreement to end an employee's use of telework. Participation in telework will be terminated when the employee no longer meets the eligibility criteria.
- F. Management shall provide sufficient notice when feasible, before terminating a telework agreement in an effort to allow the affected employee to make necessary arrangements.
 - 1. Typically, sufficient notice will be three pay periods; however, individual circumstances may warrant more time to allow the affected employee to make arrangements or if the situation involves work exigencies or documented misconduct the supervisor believes is related to telework then the notice period is at management's discretion.
 - 2. Leave in these instances should be granted liberally. The reason for termination will be documented, signed by the supervisor, and furnished to the affected employee.
 - 3. Consent or acknowledgement via signature by the affected employee is not required for the termination of telework to take effect.
- G. When any significant aspect of an employee's work changes (e.g., position, work assigned, AWL), the supervisor will reassess the portability and suitability of employee's work for continued telework approval.
- H. An employee may withdraw an application for telework, or terminate an approved telework agreement, at any time without prejudice, and return to the Official Agency Worksite. The employee must notify the supervisor in writing, and the supervisor must in turn acknowledge the employee's notice in writing, to prevent misunderstandings about work location and official workstations per applicable agreements and policy.

Section 16. Facilities and Equipment

- A. Alternative Work Location Office Space: Requirements will vary depending on the nature of the employee's work and the equipment needed to perform that work.
 - 1. At a minimum, employees are responsible for the AWL having adequate internet speed in order to easily access the intranet, agency systems, communicate by telephone, email and established collaboration tools (currently Microsoft O365 suite) with the supervisor, coworkers, and the public when working from their AWL.
 - 2. In addition, employees are responsible for verifying and ensuring their work areas comply with health and safety requirements (see the *"Employee Self-Certification Safety Checklist"*).
 - 3. Home work areas must be clean and free of obstructions, in compliance with all building codes, and free of hazardous materials.
 - 4. An employee's request to telework may be disapproved or rescinded based on safety problems or the presence of hazardous materials. A supervisor or designated safety official may inspect the AWL for compliance with health and safety requirements in the very rare

circumstance that this may be deemed appropriate. The need for a scheduled site visit by the supervisor or designated safety official to the employee's AWL during work hours may occur only in very rare circumstances where an employee's compliance with health and safety requirements raises reasonable concerns substantiating the need, and only after the supervisor receives concurrence from the servicing LER specialist or other human resources official.

B. Worksite Space Saving:

- a. If management seeks to implement space-saving initiatives related to Remote Work and telework, management will notify the union at both the National and relevant local levels prior to implementing space-saving plans.
 - i. Management and unions will participate in pre-decisional involvement (PDI) for the development and implementation of space-saving plans.
 - ii. Wider telework participation may provide the Agency an opportunity to reduce environmental impact of office space and save substantial taxpayer money in reducing workspace. To that end, the Parties reached ground rules ([Appendix D](#))

for pre-decisional involvement and local level negotiations should the Agency seek to implement any space-saving initiatives specifically based on telework levels.
 - iii. The parties agree local level negotiations are appropriate because of the unique circumstances of each location.
- b. Space-saving initiatives must first be considered for those conducting Remote Work before those on Telework.
- c. Space-saving options will become effective only after bargaining obligations have been met per the ground rules, attached as Appendix D.
- d. The parties agree, space-saving initiatives do not alleviate the Agency's responsibility to provide workspace, computer equipment (if appropriate) and telephones for employees required to report to the office at various times.
- e. When an employee is working under an approved regular telework agreement and the employee routinely works at the Official Agency Worksite five times per pay period or fewer, employees should be aware that on this basis in particular the Agency may utilize space-saving options for the employee's workspace to be negotiated at the local level as described above.

C. Government-Furnished Equipment:

- a. All employees with an approved telework agreement who require a laptop to conduct Agency work or to communicate with supervisors will receive a government-issued laptop at a minimum.
- b. Supervisors may authorize additional GFE for the individual teleworkers as necessary to meet mission needs if budget permits.

- c. Agency will use excess property to the greatest extent practicable for AWLs.
- d. Employees who have an agency-issued laptop or mobile phone assigned to them may use such equipment while teleworking and shall take reasonable safeguards against theft and damage when they do so.
- e. All agency-issued equipment and supplies remain the property of the agency, and the EPA remains responsible for service and maintenance of the equipment. Government issued equipment may be monitored to ensure they are being utilized in connection with Agency business.
- f. If an employee furnishes their own equipment/workstation at the AWL, the government will not reimburse the employee for the purchasing costs of the equipment/workstation and the equipment remains the employee's. The EPA is under no obligation to service or maintain equipment belonging to the employee even if the employee uses it for Agency work.
- g. The EPA may not reimburse employees for the utility costs (e.g., heating, air conditioning, lighting, and the operation of government-furnished computers) for AWLs. Utility costs include the monthly service charges for telephone or specific telephone charges. The Agency will not reimburse the employee for privately supplied costs, including broadband.
- h. Teleworking employees should use Agency meeting and conferencing tools, communication options like EC-500, or government-issued mobile phones to conduct official government business in other locations.
- i. Employees requiring pens, paper, paper clips, notebooks, and other supplies may use those provided by the Official Agency Worksite.
- j. For employees working at an AWL outside of the LCA, the Agency is responsible for service and maintenance of GFE. In cases where GFE needs repair and upgrade, the Agency will make reasonable and timely efforts to initiate repairs and upgrades remotely. However, should on-site assistance be required, employees must either return to their Official Agency Worksite or make other arrangements with their supervisor to ensure repairs and upgrades can be made expeditiously.
- k. In consultation with the employee, supervisors or managers will make determinations over questions such as the employee's duty status, appropriate work assignments and potential temporary equipment during the interim period between when repairs and upgrades are required and when they are completed.

Section 17. Information Security

- A. The EPA CIO issues and maintains information security directives for protecting EPA information and information systems to include when users are teleworking and accessing systems remotely. These directives outline the responsibilities of each program office, region or other organization, and users in protecting EPA systems and information. Other pertinent supporting information security directives may be issued by users' program offices, regions or other organizations.

- B. Users agree their responsibilities, described in the agency's information security directives, apply while on telework status. Teleworkers must minimize security risks to all agency information and systems.
- C. The AWL workplace and workstation and other devices used with agency information must be configured to ensure all agency information in any form or format is properly protected at all times and in accordance with all agency directives.

Section 18. Records Management

When working at an AWL, agency employees must continue to comply with the agency's records management policy and any other applicable policies related to using, creating, maintaining, and disposing of records. Employees shall also comply with the Federal Records Act, Freedom of Information Act, the terms of any litigation hold, discovery in litigation and any requests for records by the Office of the Inspector General. Any record removed from the Official Agency Worksite for telework assignments remains the property of the agency and any information generated from telework assignments is the property of the agency. Employees are responsible for maintaining the integrity of their records and for producing records on demand.

Section 19. Appendices

Appendix A: Telework Application

Appendix B: Telework Safety Checklist

Appendix C: Medical Telework

Appendix D. Safe Saving Initiative Ground Rules MOU

FOR THE AGENCY

FOR THE UNION

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Robert Coomber

EPA Chief Negotiator

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